

If a purchase order is accepted in a jurisdiction that imposes a local tax, such as a Home Rule Municipal Retailers' Occupation Tax, that local tax will be incurred. See 86 Ill. Adm. Code 270.115. (This is a GIL).

March 6, 2000

Dear Xxxxx:

This letter is in response to your letter dated January 20, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

COMPANY is an internet grocer (retailer) providing same-day delivery of groceries and consumer products. COMPANY has signed a lease for an approximately 350,000 square feet facility in the VILLAGE.

PERSON, after a discussion with EMPLOYEE at the Illinois Department of Revenue regarding the situs of sales/use taxes generated by COMPANY's transactions, suggested that COMPANY submit this letter to you.

COMPANY is currently operating a facility in CITY/STATE and the computer servers for COMPANY's website are currently located in STATE. COMPANY is expanding its base and will be opening facilities in STATE1, STATE2 and other states. Therefore, computer services may ultimately be located in VILLAGE and at any number of locations throughout the country.

Pursuant to 86 Illinois Administrative Code, Chapter 1, Section 270.115(b)(3) ('Administrative Code'), it is important to note that COMPANY sells tangible personal property in inventory (or subsequently produced at the VILLAGE facility) from the VILLAGE Facility at retail and the tangible personal property is then delivered in Illinois to the purchasers. VILLAGE is a home rule municipality.

The methodology of the transaction is as follows. An order is placed by a customer through the website. The customer's credit card number is authorized and funds are reserved from the account to cover the order. The order is transmitted electronically to COMPANY's facility in VILLAGE where the workers assemble the order from the products stored at the facility. The completed order is then delivered by COMPANY to the customer in Illinois.

Pursuant to the Administrative Code, the situs for sales/use taxes generated by COMPANY's transactions is VILLAGE. Please confirm in writing that our reading of the Illinois statutes and Administrative Code are correct and that the situs for sales/use taxes is the VILLAGE under these circumstances.

COMPANY sincerely appreciates the hospitality and cooperation extended by all of the governmental officials in Illinois. It has made our job easier and more enjoyable.

For reference, we have enclosed a copy of Sec. 270.115 of the Home Rule Municipal Retailers' Occupation Tax that you noted in your letter. See the enclosed copy of 86 Ill. Adm. Code 270.115. The Department considers a retail sale to occur in the location where the retailer accepts the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, such as a Home Rule Municipal Retailers' Occupation Tax, that local tax will be incurred.

We cannot determine from the facts presented in your letter where the purchase order acceptance for your web-based sales takes place. If a purchase order for a sale to a customer in Illinois were accepted within the jurisdictional boundaries of the VILLAGE, the receipts from that sale would be subject to any Home Rule Municipal Retailers' Occupation Tax imposed by the VILLAGE.

The tax rate is fixed by the location of the seller, not the delivery location. The fact that the item being sold is shipped from out-of-State or from another Illinois location is immaterial for purposes of local taxes if the sale occurs through order acceptance in an Illinois jurisdiction imposing a local tax.

If a purchase order is accepted outside the State, but the property being sold is located in an Illinois jurisdiction that has imposed a local tax (see, for example, Section 270.115(b)(3)), then the location of the property at the time of sale will determine where the seller is engaged in business for the purpose of determining the imposition of applicable local sales taxes. If a purchase order was accepted outside of this State but the Illinois customer's order was filled from an inventory located within the jurisdictional boundaries of the VILLAGE, the receipts from that sale would be subject to any Home Rule Municipal Retailers' Occupation Tax imposed by the VILLAGE.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

ST 00-0038-GIL

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Terry D. Charlton
Associate Counsel

TDC:msk
Enc.